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OFFICE OF PETITIONS

In re Application of	:
Michel E. Mawad	:
Application No. 10/755,249	: DECISION ON PETITION
Filed: January 12, 2004	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 1366-00901	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed June 14, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to a prior-filed provisional application.

The petition is **DISMISSED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

- (1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

This pending nonprovisional application was filed on January 12, 2004, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/439,229, which was filed on January 10, 2003, and for which priority is claimed. The Supplemental Application Data Sheet filed with the renewed petition on June 14, 2005 shows the filing date of the provisional application as January 12, 2004, which is inconsistent with Office records.

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a renewed petition under 37 CFR 1.78(a)(6) and a Supplemental Application Data Sheet or amendment with the correct provisional filing date of January 10, 2003 is required.


Further correspondence with respect to this matter should be addressed as follows:

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Any questions concerning this matter may be directed to Irvin Dingle at (571) 272-3210.


Frances Hicks
Petitions Examiner
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